

**LAW OFFICES OF JAMES H. ROHLFING**

Renee C. Rivas, Esq.

**445 South Street, Morristown, NJ**

**Mailing address: P.O. Box 2903, Hartford, CT 06104-2903**

T: 973-631-7300 | F: 855-857-9822

Attorney for Third-Party Defendant, Gasser Chair Company, Inc.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

<p>GLEN R. FOULKE and CARRIE FOULKE,</p> <p><i>Plaintiffs,</i></p> <p>vs.</p> <p>THE CHEESECAKE FACTORY INCORPORATED and GRAND LUX CAFÉ, LLC, AND JOHN DOES #1, #2 AND #3,</p> <p><i>Defendants,</i></p> <p>and</p> <p>THE CHEESECAKE FACTORY INCORPORATED AND GRAND LUX CAFÉ, LLC,</p> <p><i>Defendants/Third-Party Plaintiffs,</i></p> <p>vs.</p> <p>GASSER CHAIR COMPANY, INC.,</p> <p><i>Third Party Defendant.</i></p>	<p><b>CIVIL ACTION NO.:</b></p> <p><b><u>NOTICE OF REMOVAL</u></b></p>
---	--

**PLEASE TAKE NOTICE THAT** on September 14, 2022, based on the following allegations, Third Party Defendant, Gasser Chair Company, Inc. (hereinafter referred to as “GCC”) hereby remove this action from the Superior Court of New Jersey, Bergen County, Docket No. BER-L-2419-21, to the United States District Court for the District of New Jersey on the basis of diversity of citizenship.

### **SUMMARY OF CASE BACKGROUND**

1. A civil action allegedly brought in negligence and strict products liability, and styled *Glen R. Foulke and Carrie Foulke vs. The Cheesecake Factory Incorporated and Grand Lux Café LLC, et als.*, was commenced on April 9, 2021 via the filing of a Complaint in the Superior Court of New Jersey, Bergen County Vicinage, which was assigned Docket Number BER-L-2419-21. A Third-Party Complaint styled *The Cheesecake Factory Incorporated and Grand Lux Café LLC vs. Gasser Chair Company Inc.* was filed on August 12, 2022, also in Bergen County. A copy of same, which incorporates the underlying Complaint, is attached as **Exhibit A**. Third-Party Plaintiff purportedly served GCC on August 16, 2022 by delivering a copy of the Complaint to its offices in Youngstown, Ohio. See Affidavit of Service attached as **Exhibit B**.

2. Pursuant to 28 U.S.C. § 1446(a) and Local Civil Rule 5.1(e), true and correct copies of all process, pleadings and orders in this matter which were filed with the Superior Court of New Jersey for Bergen County and served or attempted to be served upon GCC are collectively appended hereto as **Exhibits A and B**.

3. Per the Complaint, this action arises of our personal injuries allegedly sustained by the Plaintiff after sitting on a chair that fell apart at Defendant/Third-Party Plaintiff The Cheesecake Factory Incorporated and/or Grand Lux Café LLC's premises (hereinafter referred to as "CFI"). CFI seeks contribution and indemnification from GCC, presumably the manufacturer of the chair. See **Exhibit A**, Answer and Third-Party Complaint.

### **BASES FOR REMOVAL OF ACTION**

4. This Notice of Removal is filed within thirty (30) days of the service of Third-Party Plaintiff's Third-Party Complaint upon GCC. Said service would constitute the initial pleading setting forth the claim for relief upon which Third-Party Plaintiffs' action against Third-Party

Defendant is based.

5. Upon information and belief, this action concerns a matter in controversy exceeding the sum or value of \$75,000, exclusive of interest and costs. In their Complaint, Plaintiff claims that as a result of Defendants' alleged negligence, Mr. Foulke "received personal injuries, causing him physical pain, suffering and emotional distress."

6. Given the foregoing, pursuant to 28 U.S.C. §§ 1441 *et seq.*, this action may be removed to this Court on the basis of jurisdiction under 28 U.S.C. § 1332(a) due to the complete diversity of citizenship between Plaintiffs and Defendants.

7. Plaintiffs, who reside at 102 Somerset Lane, Ocean City, New Jersey, are citizens of New Jersey.

8. Upon information and belief, Defendant/Third-Party Plaintiff, The Cheesecake Factory Incorporated, is a foreign corporation organized under the laws of the State of Delaware with a principal place of business at 26901 Malibu Hills Road, Calabasas Hills, California. See Exhibit A, Answer and Third-Party Complaint.

9. Upon information and belief, Defendant/Third-Party Plaintiff, Grand Lux Café LLC, is a foreign corporation organized under the laws of the State of Delaware with a principal place of business at 26901 Malibu Hills Road, Calabasas Hills, California. See Exhibit A, Answer and Third-Party Complaint.

10. Third-Party Defendant, Gasser Chair Company, Inc. is a corporation incorporated in the State of Ohio with its principal place of business located at Youngstown, Ohio.

11. As required by law, after the filing of this Notice of Removal with this Court, Third-Party Defendant GCC will (i) promptly serve notice of the said filing upon counsel for Plaintiffs and Defendants/Third-Party Plaintiffs, and (ii) promptly file a true and correct copy

of this Notice of Removal with the Clerk of the Superior Court of New Jersey for Bergen County. *See*, 28 U.S.C. § 1446(d).

12. Pursuant to *Fed.R.Civ.P.* 7.1(a), appended to this Notice is Defendant GCC's Corporate Disclosure Statement. See Corporate Disclosure Statement of Third-Party Defendant, Gasser Chair Company, Inc., a true and correct copy of which is attached hereto as **Exhibit C**.

13. By filing this Notice of Removal, GCC does not waive any defense which may be available to them in this action.

14. Further, Defendants demand a jury trial. *See Fed.R.Civ.P.* 38.

**WHEREFORE**, Third-Party Defendant, Gasser Chair Company, Inc., respectfully requests that this Honorable Court assume subject matter jurisdiction over this action on the grounds of diversity jurisdiction as set forth in this Notice of Removal.

Respectfully submitted by,



Dated: September 14, 2022

Renée C. Rivas (RR-7921)  
LAW OFFICES OF JAMES H. ROHLFING  
445 South Street, Suite 200  
Morristown, NJ 07960  
Mailing Address: P.O. Box 2903  
Hartford, CT 06104-2903  
T: 973-631-7362  
E-mail: RRivas@travelers.com  
Attorney for Third-Party Defendant,  
Gasser Chair Company, Inc.